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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,699	06/10/2005	August Van Der Beek	METS 9295US	6949

1688 7590 12/13/2006

POLSTER, LIEDER, WOODRUFF & LUCCHESI  
12412 POWERS COURT DRIVE SUITE 200  
ST. LOUIS, MO 63131-3615

EXAMINER

NGUYEN, JIMMY T

ART UNIT PAPER NUMBER

3725

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/538,699	BEEK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jimmy T. Nguyen	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/6/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/15/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### *Information Disclosure Statement*

Receipt is acknowledged of an Information Disclosure Statement (I.D.S.), filed September 15, 2005, which I.D.S. has been placed of record in the file. An initialed, signed, and dated copy of the form PTO-1449 is attached to this Office action.

### *Specification*

**The abstract is objected to** because it exceeds 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. Furthermore, the content of the abstract should be listed on a separate sheet of paper by itself, without other details (i.e. inventor names, ...) in order to avoid confusion in the future when the application goes to the publication department for printing.

**The disclosure is objected to** because of the following informalities: Page 4, line 12 is objected to because it is improper to refer to a claim in the specification. The specification is a stand alone document and is not read in light of the claims. Appropriate correction is required.

### *Claim Objections*

Claims 7-12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Also note that the metes and bounds of claim 10 are unclear because it is not clear



what Applicant is relying on in the method claims for patentability. Claim 10 should be rewritten in an independent form with all of the intended limitations.

Accordingly, the claims 7-12 have not been further treated on the merits.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim is generally narrative, failing to conform with current US practice. The claim does not positively set forth method steps intended to be claimed. For example, it is not clear whether the method steps of "at least one step which can be registered by measurement in terms of time and/or distance for compacting" (lines 6-7); "registration of amplitudes of the oscillation condition..." (lines 16-17); "predefinition of at least one permissible oscillation..." (lines 17-18); "predefinition of a permissible oscillation amplitude of the entire press..." (step a, lines 8-9) are intended to be positively recited steps or not. Applicant should carefully review and amend the claim to put it in proper form for US practice. For example, in order to be a positively recited step, the first limitation, as note above, should be written as follows: "registering a measurement ....." It is suggested that Applicant should review



the form of method claims as recited in the cited US 5,094,107, as an example to put the claim in proper form for US practice.

Additionally, applicant should avoid using linking terms such as "preferably" (line 3), "can be" (lines 6, 10) because the limitation followed by these linking terms is considered indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

Regarding claim 1, lines 16-17, there is insufficient antecedent basis for the limitation "the oscillation condition" in the claim.

Regarding claim 1, lines 22-27, there is insufficient antecedent basis for the limitation "the time ...of a relative movement ..." in the claim.

Regarding claim 1, step a, line 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 1, line 28, there is insufficient antecedent basis for the limitation "the pressing operation" in the claim.

Regarding claim 2, lines 3-4, there is insufficient antecedent basis for the limitation "the value of the amplitude which causes the stick slip effect ..." in the claim.

Regarding claim 3, lines 3-4, there is insufficient antecedent basis for the limitation "the value of the amplitude which causes the stick slip effect ..." in the claim.

Regarding claim 4, there is insufficient antecedent basis for the limitation "the amplitude of oscillations within the cycle ..." in the claim.



Regarding claim 5, line 4, there is insufficient antecedent basis for the limitation "the piston/cylinder unit" in the claim.

Regarding claim 5, line 5, the limitation "a hydraulic drive system" lacks antecedent basis in the claim because it is unclear whether this hydraulic drive system is referring to the hydraulic drive system as claimed in claim 1, lines 14-15 or to a different hydraulic drive system.

Regarding claim 6, line 4, the applicant should avoid using linking term "can be" because the limitation followed by this linking terms is considered indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

**In general, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document, all claims (including the objected claims 7-12) should be carefully reviewed for clarity and definiteness.**

Please note that claims 1-6 have not been rejected over prior art. However, in view of the issues under 35 USC 112 rejections as set forth above, the allowability of the claims can not be determined at this time.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant methods for monitoring the operating condition of a machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T. Nguyen whose telephone number is (571) 272-4520.

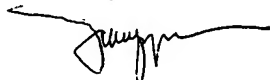


The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lowell Larson can be reached on (571) 272- 4519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
December 08, 2006

  
JIMMY T. NGUYEN  
EXAMINER - AU 3725